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REMARKS

Applicant has thoroughly considered the Examiner's remarks and has amended the claims to more clearly set forth the invention. By this Amendment A, claims 1, 2, and 4 have been amended. Applicant respectfully requests allowance of claims 1-7 in light of the amendments and following remarks.

Claim Objections

Claims 1-5 are objected to because the limitation "a satellite transceiver" is unclear in the context of the claims, because it seems that the claimed satellite transceiver is not located at the satellite, but at the uplink station. In order to more clearly set forth the invention, "a satellite transceiver" has been renamed "a satellite uplink transceiver".

Rejections Under 35 U.S.C. § 112

Claim 7 is rejected under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, because it is a hybrid claim comprising a method and computer-readable media.

Applicant respectfully submits that claim 7 is similar to an acceptable product-by-process claim in that it defines a computer-readable medium having computer-executable instructions which direct a computer to perform the methods set forth in claim 6. The method is thus

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physically embodied in a computer-readable medium. Claim 7 is proper in its construction in that it references and is dependent from previous claim 6, and still further defines the product created having embodied thereon the method in claim 6. Moreover, the metes and bounds of claim 7 are clearly set forth in the method claim 6 from which claim 7 depends.

The fourth paragraph of 35 U.S.C. §112 requires "a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed." Claim 7 satisfies this statutory requirement. Claim 7 is written in a format that defines, in dependent form, a computer-readable medium to perform a method, thus enabling the performance of the methods set forth in claim 6.

The format of claiming a computer-readable medium with instructions to perform a method, or a computer programmed to perform the method, was approved in *In re Beauregard*, 35 USPQ2d 1383 (Fed. Cir. 1995). The primary difference between the Beauregard claims and claim 7 is that this claim was written in a dependent format. Often this format raises an initial concern because the preambles of the dependent claims differ from the base claims. However, the present dependent claim also complies with a format approved by the Board of Patent Appeals and Interferences in *Ex parte Adrianus P.M.M. Moelands*, 3 USPQ2d 1474 (PTO Board of Pat App and Int 1987). In Moelands, the Board upheld as appropriate the following dependent claim to a data transmission system:

11. A data transmission system comprising:

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at least two of the data transmission stations of claim 10;
a clock bus interconnecting the clock terminals of the stations; and
means which maintain the clock bus at the second voltage level in the absence of forcing by the stations.

Although the preamble in Moelands' claim 11 to a "data transmission system" is different than the preamble in claim 10 to a "data transmission station", the Board held that this dependent claim format satisfies the statutory requirements of both the second and fourth paragraphs of 35 U.S.C. §112.

Accordingly, claim 7 is in an acceptable dependent format and is in condition for allowance. Applicant respectfully requests that the rejection to claim 7 under 35 U.S.C. § 112 be withdrawn.

Rejections Under 35 U.S.C. § 103

Claims 1, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toporek (US 6,584,083) in view of Haldeman (US 6,801,576). Although the Examiner acknowledges that the Toporek reference fails to disclose media content as live media webcasting, the Examiner asserts it would have been obvious to use Haldeman for live media webcasting (See Office Action at page 4). Applicants submit that there is no suggestion to combine the two references, and even so, that the two systems combined fail to teach live media webcasting as set forth in the claims.

Toporek discloses a method of incorporating satellite connections into the TCP/IP environment of the Internet.

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The method intercepts a TCP/IP format communication from a client to a server, converts the communication to a new format (XTP), transmits it over the satellite link to a location closer to the server, and converts the communication back into a TCP/IP format to be transmitted through the Internet to the server. It is basically a seamless integration of satellite transmissions into the Internet in order to improve the speed with which the Internet transmits data over long distances using current technology. Applicant submits however that the system of Toporek is not compatible with live webcasting and the teachings of Haldeman fail to cure this deficiency.

In fact, Toporek teaches away from the present invention because not all information received by the gateway in Toporek is converted to a propagation delay insensitive format and sent over the satellite communications link (see Toporek, Col. 12, Line 21 - Col. 12 Line 25 and Col. 12, Line 65 - Col. 13, Line 7). In contrast, embodiments of the present invention convert the first webcasting signal into a transmission propagation delay insensitive format for transmission over the satellite communications link (see Application, Page 13, Line 17 - Page 14, Line 12). To this end, claim 1 as amended recites, "...converting the live media content to a second webcast format having a characteristic such that the second webcast format is insensitive to the transmission propagation delay...". Thus, Toporek fails to teach a satellite communications system compatible with webcasting live media content.

Haldeman merely discloses a method of encoding video and a distribution system. The video encoding method

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involves simply encoding video in a digital format and compressing it. Haldeman teaches away from the present invention because encoding takes place at a central facility where analog video is converted to digital media and cut into clips by a compressionist (see Haldeman, Col. 9, Line 20 - Col. 9, Line 42). In contrast, an aspect of the present invention encodes automatically, on site, and does not cut the video into clips which are critical components of live webcasting (see Application, Page 13, Line 17 - Page 14, Line 12). To this end, claim 1 recites, "...an encoder encoding the live media content into a first webcast format at the first location...".

Moreover, Haldeman's distribution system discloses distributing stored video clips to users on demand over the Internet from multiple servers. Additionally, Haldeman teaches that video clips are always provided from multiple servers in a load balancing arrangement (see Haldeman, Col. 9, Line 57 - Col. 10, Line 30). This is not compatible with the single origination point for the live media, i.e., "at a first location," as claimed in the present invention (see Application, Page 13, Line 17 - Page 14, Line 12). To this end, claim 1 as amended recites, "...capturing live media content at a first location and webcasting the live media content to a second location...".

Furthermore, Applicant submits that the selective combination of these references is based on hindsight gleaned from the invention itself rather than from a teaching in the art suggesting their combination. Even if the Office takes into account knowledge available at the time of the claimed invention, the cited art must support the selective combination of the references by suggesting

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the desirability of making the combination. See Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ 2d 1434, 1438 (Fed. Cir. 1988). Applicant understands that an express, written motivation to combine prior art references need not appear in the references before a finding of obviousness, but may come from the nature of a problem to be solved, leading inventors to look to references relating to possible solutions to that problem. See Ruiz and Foundation Anchoring System, Inc. v. A.B. Chance Co., 357 F.3d 1270 (Fed. Cir. 2004). However, neither an express, written motivation to combine prior art references appears in the references nor is the nature of the problem being solved the same.

In this case, neither Toporek nor Haldeman contain a suggestion to combine satellite communications with live media webcasting. As discussed above, the system of Toporek is not compatible with live media webcasting and therefore contains no references to live media webcasting. There are two references to satellite transmissions in Haldeman; one to sending an analog video signal to the station for encoding (see Haldeman, Col. 7, Line 23 - Col. 7, Line 39), and the other to sending and receiving an analog satellite television broadcast (see Haldeman, Col. 4, Line 22 - Col. 4, Line 29). Haldeman thus fails to suggest sending encoded digital media over a satellite communications link, which is critical to live webcasting as taught by applicant. Applicant respectfully requests that the Examiner remove the rejections of claims based on these references, and/or provide some teaching, suggestion, or motivation in the prior art to select and combine the Toporek and Haldeman references.

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For these reasons, applicant submits that claim 1 is allowable over the cited art. Claims 2 and 3 depend from claim 1 and are believed to be allowable for at least the same reasons as claim 1.

Claim 4 as amended recites, "...converting the first digital webcast signal to a second digital webcast signal being insensitive to the transmission propagation delay..." Therefore, claim 4 distinguishes over the cited art by converting the entire first digital webcast signal. Claim 5 depends from 4 and is likewise allowable.

In addition, claim 6 recites a method including "...converting the fist digital webcast signal to a second digital webcast signal being insensitive to the transmission propagation delay of the satellite communication link...". As discussed above, the cited art teaches away from converting the entire first digital webcast signal into a format for transmission over the satellite link. For these reasons, claim 6 and its dependent claim 7 are believed to be allowable.

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Conclusion

In view of the foregoing, Applicant submits that claims 1, 4, and 6 are allowable over the cited art. Claims 2-3, 5, and 7 depend from these claims and are believed to be allowable for at least the same reasons as the independent claims from which they depend.

It is felt that a full and complete response has been made to the Office Action and Applicant respectfully submits that pending claims 1-7 are allowable over the cited art and that the subject application is now in condition for allowance.

The fact that Applicant may not have specifically traversed any particular assertion by the Examiner should not be construed as indicating Applicant's agreement therewith.

Any required fees or overpayments should be applied to Deposit Account No. 19-1345.

Respectfully submitted,


Robert M. Bain, Reg. No. 36,736
SENNIGER POWERS
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

RMB/MAP/lav

Via Facsimile (571) 273-8300